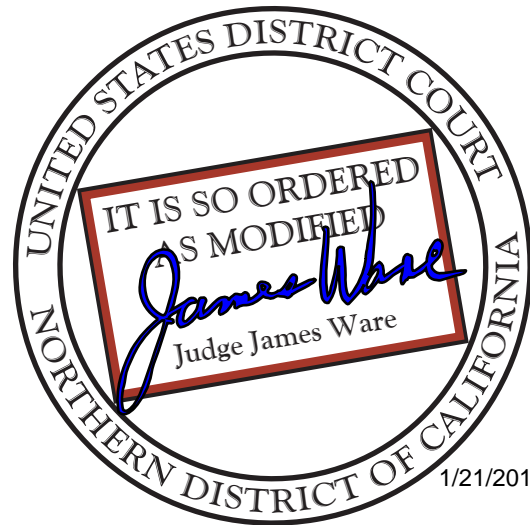


KEITH R. VERGES
 PARKER D. YOUNG
 RAYMOND E. WALKER
 FIGARI & DAVENPORT, L.L.P.
 901 MAIN STREET, SUITE 3400
 DALLAS, TEXAS 75202
 TEL: (214) 939-2000
 FAX: (214) 939-2090
 ADMITTED PRO HAC VICE

SHAWN T. LEUTHOLD
 LAW OFFICE OF SHAWN T. LEUTHOLD
 1671 THE ALAMEDA #303
 SAN JOSE, CALIFORNIA 95126
 TELEPHONE: (408) 924-0132
 FACSIMILE: (408) 924-0134

Attorneys for Plaintiffs Brice Yingling
 d/b/a Alamo Autosports and Andy Scott



IN THE UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

| | | |
|----------------------|---|---------------------------------|
| BRICE YINGLING D/B/A |) | Case No. 5:09-CV-01733-JW |
| ALAMO AUTOSPORTS |) | |
| AND ANDY SCOTT, |) | STIPULATION REGARDING |
| |) | BRIEFING ON PLAINTIFFS' REQUEST |
| |) | FOR CLARIFICATION OR |
| |) | MODIFICATION OF THE |
| Plaintiffs, |) | SCHEDULING ORDER RE: |
| |) | CLASS CERTIFICATION |
| V. |) | |
| |) | |
| EBAY, INC., |) | Jury Trial Demanded |
| |) | |
| DEFENDANT. |) | |

Pursuant to L. R. 7.12 and 7.4(b), Plaintiffs, having stipulated with Defendant, file this request to set an accelerated briefing schedule regarding their request for clarification and/or modification of the Court's Scheduling Order Re: Class Certification (Docket no. 42). Plaintiffs

1 filed their motion to compel and to modify Scheduling Order on December 17, 2009 (the
2 "Motion," Docket no. 50). Because the issues presented were primarily discovery disputes, the
3 Motion was set for hearing before Magistrate Judge Trumbull.

4 One prominent issue in the Motion is whether the Scheduling Order precludes the discovery
5 that is the subject of the Motion or in the alternative whether the Scheduling Order should be
6 modified to eliminate bifurcation altogether. After briefing closed on the Motion, the parties
7 presented oral argument on the Motion to Judge Trumbull on January 19, 2010. She took the
8 matter under advisement, but indicated that the request to lift bifurcation and modify the
9 Scheduling Order should be left ultimately for Judge Ware.

10 The parties would therefore like to address Plaintiffs' request for clarification or
11 modification of the Scheduling Order to Judge Ware for decision. As an administrative
12 convenience, and to distinguish between the overarching bifurcation issue, on one hand, and the
13 other discovery disputes addressed by the Motion, on the other, the parties propose that Plaintiffs
14 will re-file a separate Motion for Clarification or Modification of the Scheduling Order confined to
15 the issue of bifurcation for Judge Ware's consideration. The parties further request an opportunity
16 for eBay to supplement its briefing on this discreet issue and for Plaintiffs to reply.

17 Further, the Court's decision on whether to maintain or discard bifurcation may well
18 impact ongoing discovery, and the discovery deadline is currently set for February 22, 2010.
19 Accordingly, the parties also request an accelerated briefing schedule such that these matters will
20 be fully briefed and ripe for consideration in connection with the upcoming Interim Management
21 Conference, currently set for 10:00 a.m. on February 8, 2010.

22 For the foregoing reasons, the parties respectfully request that the Court adopt the following
23 briefing schedule:
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25
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January 25, 2010. Plaintiffs to file their Motion for Clarification or Modification of the Scheduling Order, which may incorporate designated portions of the Motion pertaining to bifurcation.

January 29, 2010. eBay to file its response.

February 1, 2010. Plaintiffs to file any reply.

AGREED:

By: /s/ Raymond E. Walker
Keith R. Verges
Parker D. Young
Raymond E. Walker

By: Whitty Somvichian
Michael G. Rhodes
James Penning

THE FOREGOING STIPULATION IS APPROVED AND IS SO ORDERED.

The matter is submitted without oral argument unless otherwise ordered by the Court.

Dated: January 27, 2010

United States District Judge

FILER'S ATTESTATION:

Pursuant to General Order No. 45, 5X(B) regarding signatures, I attest under penalty of perjury that the concurrence in the filing of this document has been obtained from its signatories.

Dated: January 22, 2010

By: /s/ Raymond E. Walker
Raymond E. Walker

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record will be served with a copy of this document via the Court's CM/ECF system pursuant to the local rules of this Court, on this 22nd day of January 2010.

/s/ Raymond E. Walker
Raymond E. Walker